IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 57 OF 2006

IN

CRIMINAL APPEAL NO. 1496 OF 2004

Babban @ Gorya Shriram Gholap..... .. Applicant.

Versus

The State of Maharashtra. .... Respondent.

Mr. O. A. Chishty for the Applicant.

Ms. M. M. Deshmukh, APP for the State.

CORAM : V. M. KANADE, J.

DATED : 15TH FEBRUARY, 2006.

P.C.:

Heard learned Counsel for the Applicant and the learned APP for the State.

2. The Applicant is convicted by the trial Court for the offence punishable under Section 376(2)(g) of the Indian Penal Code and sentenced to suffer R.I. for 10 years. The Applicant was on bail during the trial. The other co-Accused are released on bail by this Court in Criminal Application No.3952 of 2004. From

the evidence of the prosecutrix it can be seen that she has not seen the faces of the Accused and has become unconscious after the incident of rape. Police state that 6 persons have raped her whereas evidence is that 4 persons had entered her hut. The medical evidence also does not support her case as no abrasion or injuries were found on her private part. In view of this material contradiction in the evidence of the prosecutrix and the medical evidence which is brought on record, I am of the view that the Applicant is entitled to be released on bail.

3. In the circumstances, the Applicant shall be released on bail in the sum of Rs.5,000/- with one or two sureties in the like amount. The Applicant shall report to Dharavi Police Station once in a month. Payment of fine awarded by the trial Court is stayed.

4. The Application is disposed of in the terms aforesaid.

Sd/-

(V. M. KANADE, J.)